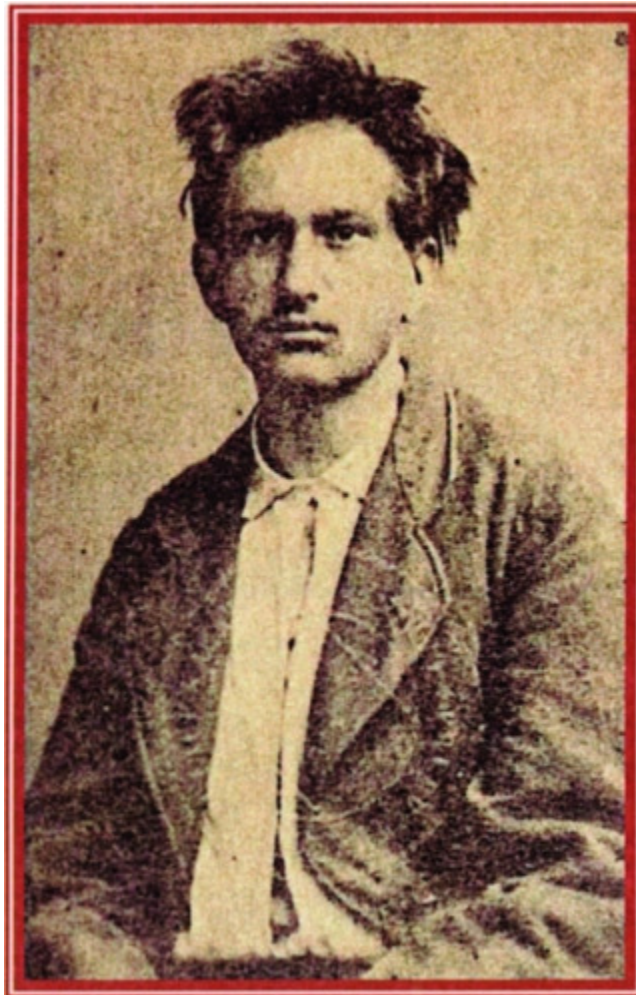


# THE QUESTION OF CRIMINALS

by Doctor Gustave Le Bon

Robert K. Stevenson: Translator, Editor &  
Reminiscencer



Louis Ménesclou, murderer  
(guillotined, 1880)

86, rue de Courcelles  
Paris, France  
July 26, 1929

My dear friend,

I wish you had been with me on that special July 17<sup>th</sup>, 1879 afternoon. I picked up Le Bon, and we went to the Anthropology Society's meeting. Doctor Ardouin gave a short, though intriguing, talk regarding the cranial capacity of criminals, a follow-on to Bordier's talk in April on the skulls of murderers.

Afterwards we made our way to Henri's, our favorite café, which the maitre d', in expectation of our arrival, had already reserved for us the corner table. Le Bon appeared to have been inspired by Ardouin's presentation, as he ended up spending most of our mealtime enthusiastically detailing for me his thoughts about the causes of, and ways to protect society from, criminal behavior, a subject I had never heard him expound on before.

Our friend described how our criminal justice system was a failure in all respects but one—as a jobs program for the police, lawyers, magistrates, prison guards, and the like. As usual, Le Bon did not stop after sharply criticizing the status quo, but continued on by proposing a novel solution to the seemingly intractable problem of dealing effectively with criminals: deportation. The worst of the felons, he advocated, should be shipped off to New Caledonia or some other end-of-the-earth colony of ours, and never be allowed to return. His arguments on behalf of this cost-saving and society-protective policy I found most persuasive—and I believe you will, too, for fortunately they still exist in reviewable form; the master set them down in a magnificent paper, "The Question of Criminals," that the *Revue Philosophique* ultimately published, and which I have enclosed for you.

It is now 50 years later, and Le Bon's deportation of criminals proposal, for all its logicalness, has yet to be adopted by the powers-that-be. And I fear that our wait for that happy day will be held off for as long as the late afternoon breezes continue to inspire all the hard-working souls unwinding at Henri's.

Wishing you good cheer, I remain, as ever,

Your friend,

Robert

# **“THE QUESTION OF CRIMINALS”**

**by Doctor Gustave Le Bon**

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Utilizing the resources of present-day scientific methods, we propose to consider here under the above title an important anthropological and social question, one which is hardly being studied nowadays by jurists, philosophers, and historians.

The main preoccupation of any science is always to define its aim. Definitions elicited from etymology come easily, but are generally insufficient because the object of every science, including those which seem the most organized, such as physics, for example, varies from each epoche according to the tendencies of the moment.

Anthropology is, as its name indicates, the study of man. Social science—or if one prefers another word, sociology—is the study of societies. However, these concise definitions cast a very misleading light. For where does the science of man begin or end? Physiology, anatomy, pathology, archeology, history, etc., with each one forming a part of the field of anthropology, it is indeed difficult to name many sciences that are not attached to this field by some bond. Furthermore, a professional anthropologist recently asserted that music and sculpture also comprise part of the anthropological sciences. They undoubtedly are connected by the same right that unites linguistics and demography to the sciences of man. Additionally, chemistry, which reveals to us the composition of our tissues, and the art of nutrition, which supplies us the means to restore our tissues' losses, can likewise be associated with anthropology. Looked upon in this way, anthropology will soon become nothing but an aggregate of disparate sciences and will end up disappearing for lack of an aim or purpose.

In fact, it is only necessary in any science to search for those things that are really vital in promoting its development, and not those which tend to stifle it. The anthropology of the ancients, because it had little time to gain experience, only concerned itself with moral man. The new anthropology of today only occupies itself with anatomical man. It has entirely abandoned the study of the intellectual functions, so much so that the professional anthropologist cited above does not himself make mention of psychology (although he includes music and sculpture) in the quite diversified list of anthropological sciences.

In order to pass judgment on the tendencies of modern anthropology, it is necessary then to study the works of anthropologists; however, nothing more than a quick glance is sufficient in order to learn that the principal object of their research is the study of human races. What anthropologists generally study the most in human races are variations of the skeleton's shape, particularly those relating to the skull. Such an examination certainly qualifies as a useful task, for it's better to provide value by affixing precise notions upon a small nook of science, no matter how limited this nook may be, than it is to toss out vague generalities lacking any firm basis; it is a task, though, which anthropology, under penalty of



being soon considered as only a branch of osteology and by consequence losing all credit, should not confine itself to for much longer. Indeed, pretending to understand a man just by studying his remains or skin color, this requires one to imagine and make sense out of a table containing a chemical analysis of all the colors which have served to constitute the man. The fact of the matter is, understanding the psychology of an individual will always be more important than knowing about his skeleton. Our current classifications of the human races are obviously quite provisional and cannot withstand anything more than a superficial examination; but, since we are obliged to content ourselves with these provisional classifications, they will better merit being divisions if they were founded upon the moral and intellectual aptitudes of diverse human groups than if they are fundamentally based on qualities as secondary as the shape of one's hair (which some truly childish classifications emphasize).

As for sociology, it is definitely still far from being able to lay claim to the title of science, because up to now it has hardly attempted to delineate anything but highly insufficient rough outlines. It is a science that really has not been born yet and which we see breaking through the horizon with difficulty. Sociology is not open to further development until anthropology—and I mainly intend here by “anthropology” the study of the comparative psychology of races—has left its period of infancy where it currently still finds itself.

Within these new sciences in the process of formation each one is able to communicate its ideas, but chiefly the facts and methods that it commands. The future will easily separate out what is useful from that which only merits oblivion.

In entertaining in this *Revue* questions which seem to us to fall under the purview of the two sciences that we have seen to enumerate and to which we have devoted our most recent work, we do not bring with us any preconceived ideas or doctrinal ties. This is because we have striven to remember that if it is always indispensable to have a method, it is often fatal to possess a doctrine. Although physical man will be studied, we shall also study moral man (an endeavor so disdained nowadays by anthropologists). If we only had in hand the antiquated methods of the old out-of-date psychology, then it is with reason that our study could be considered as undeserving of one's attention. But, the methods we shall use owe their existence to the work of the physiologists, whose methods enable one to approach the study of man with the precision that modern scientists employ in the study of any sort of physical phenomenon; regrettably, despite their great utility, the methods of the physiologists continue to be ignored by France's classical education system.

We shall today only consider a single question: that concerning criminals.

## I

The latest capital executions and the clamorous proceedings at Bordeaux have brought new attention to a very serious question and the social consequences that it entails: the mental state of criminals.

Two entirely contradictory opinions reign today in this regard. In the eyes of most physicians, criminals are nothing but irresponsible lunatics who it is necessary to restrain by imprisonment and try to improve; by contrast, the totality of magistrates regard criminals as perverse beings whose only desire is to engage in a life of crime, and therefore must be punished. Tossed about between these contrary opinions are the juries, who acquit or condemn according to the impression produced upon them by the oratorical skill of the prosecutor or the defense. With respect to this serious question, psychology has stayed fairly neutral, as it has limited itself to general considerations concerning the determinism of actions. Rarely doubling as a physician, the psychologist is not very fond of adventuring upon this special terrain and only deals with technical questions debated between the public ministry and experts.

In fact, this question about the mental state of criminals comprises so many different aspects that it is impossible to deal with it with the insights and findings of a single science. In order to clearly understand it, it is necessary to successively examine it from the medical point of view, the psychological point of view, the judicial point of view, and lastly from the social point of view. It is by tackling this question under these various aspects that we shall now proceed to study it.

From the medical point of view, the principal problem to resolve is this: Do the brains of criminals exhibit special alterations that observation demonstrates are incompatible with the regular exercise of the faculties? Accordingly, must criminals be viewed as lunatics and treated like such?

When one sits in on the oral proceedings of the autopsy of an executed criminal—the only convict whose body must generally be examined by doctors—it is extremely rare to not meet with the inquiry verifying the presence of cerebral lesions more or less vast. As the accounts of all the various known cases cannot be enumerated here, I shall limit myself to briefly indicating the results of: 1) the autopsies of two vile persons executed in Paris, Prévost and Ménesclou, and 2) the examination of the Museum of Caen's collection of skulls of 35 guillotined individuals that Doctor Bordier has studied and which I have also had the occasion to examine and make sketches of for my research.

The brain of Prévost has been studied by Doctor Broca. Although it does not present pathological alterations properly so-called, it offers up certain peculiarities that has resulted in the illustrious anatomist declaring it to be highly abnormal.

As for the brain of Ménesclou<sup>1</sup>, it presents considerable pathological alterations, permitting one to regard its possessor as an insane person who has already reached an extremely advanced state of mental illness. Here is, moreover, how these lesions are described

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<sup>1</sup> The head of Ménesclou has been, on the part of Professor Sappey, the object of an experiment not previously attempted before on man, and consisted of trying to restore the life and thought of a cut-off head, by the injection of blood. The head was not reconnected to Ménesclou because, as a consequence of administrative formalities, five hours had elapsed between the execution and the delivery of the subject's body to the laboratory,

by Monsieur Chudzinski, the skillful preparator of the laboratory of anthropology: "The frontal lobe, with two symmetrical sides, suffers from a most pronounced cerebral softening, as does the first and second parietal circumvolutions. The first and second temporal circumvolutions are softened as well, but to a lesser degree. Both sides of the occipital lobe display traces of softening. The brain is on the whole so softened that one will experience difficulty in making a cast of it. The pia mater and arachnoid membrane are very tough and thick, just like one finds with the quadrupeds. The main fold of the occipito-parietal passage is deep and bends toward the brain case on the right side; it is normal on the left."

With regards to the skulls of the 35 guillotined persons at the Museum of Caen, they have furnished to Doctor Bordier analogous results. Nearly all (92%) were abnormal or pathological, with 21% containing osseous lesions along with lesions of the brain case (these both implying grave alterations of the brain). Among the anomalies or alterations noted by him, the following were primarily detected: considerable development of the brow ridges; weak development of the frontal region, but considerable development of the parietal and occipital regions and consequently of the cranial capacity itself; frequent lesions at the sutures. Some day I'll complete these indications by analyzing their modifications of form, whenever I come across the time to study the geometrical drawings that I have taken of this series of skulls, drawings which figure prominently in my already numerous collection of craniological sketches.

These recent investigations only confirm, I repeat, what previous examinations of the brains of executed criminals have shown: very high frequency of abnormal or pathological qualities. Now,

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and the tissues had already lost a part of their properties. The first person to conduct this type of interesting experiment was Brown-Séquard, who performed it upon a dog. Here is how this experiment has been related by him: "I decapitated a dog by taking care to make the division below the spot where the vertebral arteries penetrated their respective osseous canals. Ten minutes after the cessation of respiratory movements from the nostrils, lips and lower jaw, I fitted the four arterial gaps of the head with cannulas which were connected by rubber tubes to a copper cylinder through which, with the aid of a syringe, I injected oxygen-charged blood. In two or three minutes, after some faint disorderly movements, I saw visible movements of the eyes and muscles of the face *that seemed to be directed by the will*. I prolonged the experiment for another quarter of an hour, and during this entire period these movements, in appearance voluntary, continued to take place. After having discontinued the injection of blood, these movements ceased and were soon replaced by convulsions of the eyes and face, by respiratory movements of the nostrils, lips, and jaws, and then by the tremblings of agony. The pupil of the eye became dilated and then contracted like it does in ordinary death."

Recalling this strange experiment, Professor Vulpian expressed himself thusly: "If a physiologist attempted this experiment upon the head of an executed criminal, he might be witness to a great and terrible spectacle; he might restore to this head its cerebral functions; he might awaken in the eyes and facial muscles movements that with man are aroused by passions and thoughts, whose source is the brain."

This experiment, which enables one to restore at will a cadaver—simply by maneuvering a stopper—this thing so seemingly incorporeal, called the soul by the spiritualists, will surely prove to be most curious. Nothing will be easier than to set up, utilizing conventional signs, a regular conversation with this cut-off head. The experiment evidently could be prolonged for days or months, seeing that it will suffice to maintain a regular circulation of blood in the vessels of the brain by connecting these vessels in an uninterrupted fashion to those of an animal, upon whose body one perhaps might succeed in grafting the head. One could also vary the experiment in an interesting way by slowing down or accelerating the circulation, by adding to the blood different stimulating substances, such as tea, alcohol, etc., which are able to alter among living persons the mode of operation of the cerebral cells, etc.

as the brain does not present from the anatomical point of view abnormal or pathological qualities without its functions undergoing corresponding troubles, we can conclude that the above-confirmed pathological anatomy clearly justifies, at least for all the cases where such lesions are observed, what so many physicians have maintained for along time: that criminals are more or less abnormal or pathological, that is to say, more or less lunatics.

Irreproachable from the physiological standpoint, this conclusion might be challenged by persons who are ignorant of the fact that lesions of the brain are always accompanied by disturbances of its functions. Having investigated this matter sufficiently, we shall set aside our consideration of anatomical lesions, and shall now see what psychological observation reveals about the mental constitution of criminals.

## II

In order to truly understand the mental state of criminals, we shall explore the insights and findings of those persons accustomed to frequently dealing with criminals and who also possess a sufficient dose of the spirit of observation. The medical experts who testify at trials being the only ones meeting this condition, it is to them that we shall ask for information. The views and opinions that they profess, moreover, hardly vary. They are pretty well summarized by the following passage that I have seen fit to borrow from one of the most highly regarded and authoritative of such experts, Doctor Maudsley, Professor of Forensic Medicine in England:

The vile criminal is not a scoundrel by the deliberate choice of pursuing the advantages of wickedness through trickery or for the sheer joy of carrying out villainy through ambush, but rather by an inclination of his nature which makes wrong-doing to him seem good and doing good seem wrong. The fact that he generally surrenders to the allurements of instant gratification in spite of the likelihood or certainty of punishment or future suffering is proof not only of his natural affinity for evil, but also of a lack of intelligence and a weakness of the Will. The most experienced and reserved superintendents of prisons sooner or later become convinced that there is no hope whatsoever in reforming habitual criminals. "The sad realities that I have observed," noted Mr. Chesterton, "compel me to say that at least nine tenths of the habitual malefactors do not have the desire nor the intention of renouncing their way of life; they are in love with the vices to which they are addicted. . ." I have heard a young rogue proclaim, "Oh God, how good it is to steal! Whenever I have millions myself, I will still want to be a thief."

All those who have studied criminals know that there exists a distinct class of people devoted to evil; these miscreants congregate in our large cities in the thieves quarter, devoting themselves to intemperance, vice, and debauchery, with no cares for the bonds of marriage or the hindrances of consanguinity, and wholly propagate a criminal population of degenerate beings. For it is yet another observable fact that the criminal class constitutes a degenerate or morbid variety of the human species and is marked by specific qualities of

physical or mental inferiority. This group of individuals, it is rightly said, is just as distinctly recognizable as is a class of honest workers, and possesses the same "good birth" as that of a black sheep.

In addition, Doctor Maudsley concludes that those who have seriously studied the question have discovered that the amelioration of criminals is the most unrealizable of chimeras. He states: "A genuine improvement in a person's conduct involves the reformation of the nature of the individual." But how can that which is formed by the succession of generations be reformed in the course of a single life? Can a Moor change his skin or a leopard its spots?

While entirely sharing in a general way the very sound opinion of Doctor Maudsley, I believe that the author, and likewise the other forensic doctors, the majority of whom possess very little psychological training, do not know how to recognize among criminals certain very important distinctions. Heredity is certainly one of the principal factors of criminality; but, if one is often born a criminal, one can also sometimes turn into one. How can a person develop into a criminal? This is what we shall now try to explain and demonstrate.

From the psychological point of view, I shall first set up two primary classifications of criminals. These classifications, which totally stand out, are: 1) *criminals because of heredity*, and 2) *criminals because of acquired lesions to the brain*. These two large fundamental classes themselves include subdivisions entirely distinct, as we shall now proceed to substantiate.

Heading the category of hereditarily disposed criminals are, naturally, those individuals whose vicious dispositions have regularly been transmitted from father to son and who generally end up in jail, prison, or on the scaffold. It is from the midst of such individuals that great numbers of criminals are recruited. Repressive means have absolutely no preventative action upon them; only the fear of the death penalty sometimes prevents them from going ahead with committing murder. Illustrating one example from this category of criminals, I shall cite that of the Jean Chrétien family, about whom Doctor Despine has noted:

Jean Chrétien, of vulgar stock, had three children: Pierre, Thomas and Jean-Baptiste. — I. Pierre had a son, Jean-François, sentenced for life to hard labor for theft and murder. — II. Thomas had: 1) François, condemned to hard labor for murder; 2) Martin, sentenced to death for murder. The son of Martin is dead in Cayenne on account of robbery. — III. Jean-Baptiste had a son, Jean-François, who was husband to Marie Tanré (from a family of arsonists). This Jean-François had seven children: 1) Jean-François, convicted of many thefts, died in prison; 2) Benoit fell down from a house-top that he was scaling and died; 3) X., called Clam, was imprisoned for various robberies, and died at age 25; 4) Marie-Reine died in prison, having been convicted of thievery; 5) Marie-Rose—same outcome, same acts; 6) Victor is currently detained for theft; 7) Victorine is married to Lemaire, whose son is sentenced to death for stealing and committing murder.

Galton cites the case of the Jecker family in America, whose genealogy has been traced as far back as seven generations; this family line contained 540 members, of which a considerable number have ended up in jail, prison, or hung from the gallows.

Outside of these persons born as criminals (like those born hunch-backed, cancerous or consumptive), and which nothing can prevent them from becoming criminals, we find several categories of individuals who undoubtedly owe to heredity many dispositions which could lead them to a life of crime, but who, with these same dispositions, have been able to carry out very different acts. Such individuals are firstly those persons that I have named impulsives, that is to say, those natures in whom—as is likewise the case with savages, women and infants—the impulse of the moment is the motive force behind their conduct. The barriers that interpose reason between fleeting thoughts and action among individuals comprise a superior form of evolution not existing among impulsives. Depending on the conscious or subconscious motives that serve to excite these quick-natured souls, crime and virtue are equally easy for them to perform. Committing with the same ease the most heroic acts or the meanest crimes, they fling themselves into flames at the peril of their lives in order to save a stranger, or slay without hesitation the person who becomes the object of their hatred. Entire nations and peoples have possessed such qualities. For example, the Italians of the Middle Ages and their descendants living at the commencement of the Renaissance furnish us the perfect type<sup>1</sup>. In complicated and methodical civilizations like our own, qualities like impulsiveness often reappear by means of atavism, but they are too poorly adapted to the present milieu in order to not be fatally condemned to disappear.

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<sup>1</sup> It is sufficient, for want of the histories and chronicles of the times pertaining to Florence, for example, to read the *Memoires* of Benvenuto Cellini in order to gain an accurate idea of what most of the psychological qualities possessed by the Italians were back then. Cecchino, the brother of Cellini, having learned that one of his friends had been killed by soldiers on the watch, “cried out with rage so loudly that it might have been heard ten miles away.” Having been shown who the perpetrator of the murder was, Cecchino immediately hurled himself upon the soldier and thrust his sword through the man's stomach. The comrades of the deceased in turn pounced upon Cecchino, and one of them, a corporal, mortally wounded him. Cellini immediately decided to avenge his brother's death, but, having been prevented by his friends from doing so, he let his enemy go; but weeks later he surprised the corporal and tried to cut the soldier's head off with a dagger. The victim, dangerously injured, began to flee; but Cellini caught up to him and drove his dagger into the corporal's back with so much force that he was unable to pull it out. The Pope learned about the affair; but, because His Holiness was in a good mood that day, he did not attach any importance to it.

The Pope, moreover, possessed this same impulsive quality which was characteristic of all his contemporaries. Benvenuto Cellini, while walking one day along the street, ran into one of his friends, Benedetto, who began to dispute with him; Cellini immediately hurled at Benedetto's face stones which caused him to fall down at once. The adversary was wounded, but not gravely, being that he resumed his occupation the same day. The incident is recounted to the Pope. The Pontiff, who undoubtedly was in a bad mood at this moment, immediately ordered the Governor to arrest and hang Cellini at once and to not reappear before him until the execution had taken place. With Cellini having succeeded in escaping, the Pope himself, who earlier that morning wanted with no second thoughts to hang the great artist who had been to him most precious, declared that evening that “he would not wish to lose him for all the world.” All these men here obeyed their instinctive impulses with as little hesitation as that which a cat employs in springing itself upon a mouse who passes by within reach.

All the adventures that Benvenuto relates, and which are analogous, besides, to those that abound in the works of the era, permit us to form a very clear idea of the nature of the impulsive qualities of which I speak.

Society's most numerous class—the one which constitutes the crowd—forms another category of people who can be said to commit crimes due more or less to hereditary factors. Those individuals belonging to the crowd do not possess, in reality, any special criminal dispositions, but their character and morality are so weak and deficient that their conduct is absolutely dependent upon the circumstances. When the models of society are good or bad, the crowd will pursue these respective patterns of behavior: honesty in an honest environment, or viciousness in a wicked setting. It is only upon this category of possible criminals that education may have some impact. If it is necessary to give them a name, I would call them the neutrals.

To yet another category of criminals emanating from hereditary influences must be marshalled those individuals who are intelligent, energetic, and complete masters of themselves, but who are devoid of any ethical standards or possess perverse instincts. Most of them do not go as far as to commit crimes, or at least do not carry out crimes that are severely punished. Why? For fear of repression. Their morality has for limits the prescriptions of the Penal Code. Numerous are those belonging to this category, ranging from the shopkeeper who endangers the public health by falsifying his merchandise to the organizer of shady financial enterprises that ruin families. Of all the categories of criminals that I have enumerated, this one is the least affected by laws; it is, however, the most dangerous and least deserving of respect

The second main classification of criminals that I have seen to establish comprises those individuals without hereditary inclinations towards leading a life of crime, but who have acquired brain damage; this category of criminals completely differs from all the preceding. The individual bestowed with the most honest hereditary disposition is just as exposed to becoming a criminal of this class as to finding himself a victim of cholera,

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Instinctive sentiment and subsequent action are never separated by reflection. Whenever Cellini or a contemporary might encounter an enemy, he would hurl himself upon him in order to kill him, entirely like what ten hostile dogs in a small corner do in their leaping upon one another. Benvenuto chanced upon his rival Pompeio, the jeweler, outside an apothecary store; without saying a single word he mortally stabbed him twice with his dagger. Cellini assures us, though, that his intention was not to kill him; but, he added philosophically, "one is never sure of his blows."

The following short adventure, which I found in the *Memoires* of the great artist and where he recounts as a matter-of-fact thing an act which today would land its author in court, is most instructive. While making his way back to Florence, Benvenuto Cellini arrived at an inn where the proprietor demanded, according to the custom of his premises, to be paid in advance. Cellini received a bed that he himself knew to be suitable and excellent, but he was so upset by having to pay in advance that he thought about setting fire to the house in order to avenge himself. Whereas modern man, accustomed to reflecting before acting, restricts himself to some words of displeasure, the impulsive man of olden times immediately resorts to the utmost extremities. "I did not sleep the entire night," recalled Cellini, "because I kept on thinking about how I could obtain revenge. At one point I took up the fantasy of setting fire to the house, at another of slitting the throats of four fine horses that he kept in the stable. I saw that all this would be easy to carry out, but I did not see how it would be easy for me and my comrade to escape." Checked in his designs of murder and arson, solely because of the difficulty in escaping afterwards, Benvenuto confined himself to slashing with a knife four new beds until he had done more than 50 crowns of damage. Violent impulses, poor reasoning, no morality at all: these are the qualities that we can further study today among an entire category of criminals. Such persons, one will find, are like infants, savages, and the majority of females, and are as fatally obedient to the impulse of the moment as the weathervane is submissive to the action of the wind.

smallpox, or a train accident. A harmful parasite wandering through the extent of the nervous system may beget lesions that transform the most virtuous man into a scoundrel capable of committing all crimes. This latter development usually manifests itself in the following manner. General paralysis appears first, while the person's reason still seems intact; under this particular form of malady, most notably epilepsy—a seemingly insignificant affliction, though most redoubtable from the point of view of producing intellectual deterioration, in which the epileptic, without showing any apparent outward signs of trouble, loses consciousness of the entire world for a short while—as well as many other kinds of injuries to the nervous system which it is not necessary to enumerate here<sup>1</sup>, often have for consequences mental derangements which lead to all possible varieties of crime. The number of general paralytics convicted for indecent assaults, or epileptics guillotined for murder, is truly immense.

Far from diminishing with the progress of civilization, this class of criminals tends each day to become more and more numerous. In perhaps no other period of history have acquired lesions of the nervous system, lesions which might then be transmitted through heredity, been as frequently found in people as they are today. Physical and moral excitants of all sorts—tobacco, alcohol, excessive work, ambitiousness to succeed, overindulgence, etc.—have augmented in a disquieting way the number of individuals struck by affections of the nervous system. One can easily characterize our era as the *Age of the Excited*. At the time of the Crusades and during the entire Middle Ages, there was also present amongst the people an overexcitement of the nervous system; but this overexcitement, instead of impacting very different physical and mental functions, hardly expressed itself but upon one very limited category of ideas—religious ideas. This was the *Age of the Hallucinated*.

In order to reform criminals who have acquired damage to the nervous system, it is very important to note that it is not only lesions of the brain or spinal cord which can result in profound mental troubles and criminal acts; that which can attack the sensory organs may lead to identical results.

Also, although mental derangement is most often caused by the deterioration of nervous centers overburdened by the preservation or elaboration of sensory impressions, it frequently originates as well from the deterioration of the assemblage of sensory organs which receive these impressions. One sees individuals, having become deranged after losing their sight, recovering their sanity immediately following an operation that has restored their missing vision. Of 120 blind persons examined by Doctor Dumont, 37, that is to say nearly a third, exhibited mental disorders, ranging from hypochondria to mania, accompanied by hallucinations and madness. Injuries of the senses, such as touch, which in appearance ought to have little operation upon our thought processes, can also

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<sup>1</sup> Among the numerous examples of an insurmountable bent towards committing criminal acts because of injuries to the nervous system, one of the strangest is the case of the Zouave wounded in the head during the Battle of Bazeilles and who, after his recovery, at certain moments fell into a peculiar state in which he would steal any sparkling object, even those without value, that offered itself to his eyes, and do so without at all trying to hide. His detailed history has been published by many journals of medicine.



become the origin of very serious mental disturbances. Doctor Auzouy has reported the curious history of a most intelligent young man of excellent character who, after receiving some anesthesia to his skin, became so unruly in his behavior that one was obliged to commit him to the Maréville asylum. A suitable treatment having restored the man's cutaneous feeling, his moral dispositions reappeared like they were at first. He repeatedly experienced afterwards many periods of insensibility of the skin, whose advent was immediately followed by the manifestation of those bad behaviors which had made him be put away.

The alteration of sensations due to an internal origin, that is to say of sensations impaired or altered by the principal vital organs, can also be the source of more or less profound mental perturbations. This is how, I believe, one can explain the frequent appearance of such disturbances of the intellect as alienation, which one observes among pregnant women, delirium, which one notices among infants possessing intestinal worms, and personality and mood changes, brought about in many individuals who have certain viscera—especially the liver, prostate, and urethra—that are damaged or diseased. Doctor Esquirol has reported the case of an individual suffering from an acute and raging mania caused by the presence of a tapeworm and who was immediately cured after undergoing an appropriate treatment that ridded him of his parasite. One year later, the fit of mania having reemerged, the same vermifuge treatment altogether freed him from the newly returned mania and its attacks. Brown-Séquard has cited the example of a 14-year-old child afflicted with delirium produced by a fragment of glass that had remained unnoticed in the victim's big toe for years. Whenever one squeezed the affected toe, the delirium increased; it completely disappeared when the piece of glass was extracted.

I shall examine later on from the social point of view—that is to say, from the exclusively practical point of view—the degree of responsibility that can be assigned to the different criminal classes I have highlighted. A theoretical examination would be entirely without interest, I suppose, for psychologists are perfectly convinced that man conducts himself according to his nature and according to the environment in which he operates. Nonetheless, I shall offer this thought. Assume that a criminal was able to act and behave in a different manner than his make-up allowed; this then is to admit by the same fact of this hypothesis to a nature whose circumstances differ from those that have been brought to bear on him, and consequently to change the series of antecedents that have engendered the crime. In order to imagine Saint Vincent de Paul cutting to pieces an old woman after having violated her, a nature totally different from that which this kindly and charitable man possessed must be supposed, that is to say, an individual entirely different from that which was Saint Vincent de Paul must be imagined. Lunatics or not, we are fatally committed to being good or evil with the same inevitability as the balance beam, with its two scales loaded with unequal weights, tilts towards the heaviest side.

I shall set aside these theoretical discussions, though, inasmuch as they mainly lend themselves to controversies that are of no interest here. Besides, whatever may be the opinion that one professes relative to free will, the conclusions that we shall soon formulate on criminals will prove to be quite unassailable. I only wish in this work to enter upon practical questions, and from this standpoint my grounds are much too firm for me to be worried about defending and maintaining my position. As we shall shortly see, all that which I have

expressed about the mental constitution of criminals does not at all imply the uselessness of repressing crimes. Such repression is, on the contrary, indispensable for all criminals, and above all for the previously-discussed most numerous class—the crowd—whose members' conduct is only checked by the fear of repression. For every citizen, whether one be a madman or sound of mind, repression of crime must exist; but with the progress of modern science the various means currently employed to control crime must be entirely transformed.

### III

With the question of criminals having thus been treated from the medical and psychological point of view, we shall now turn our attention to studying it from the judicial and social point of view.

In theory there appears to be no distinction between these two points of view, because the law is theoretically made by and for society, but in practice it is entirely otherwise. Undoubtedly, the law is little more than the written down formula of public opinion, and corresponds well, at the time it is introduced, to the needs of society; but, conservative by nature, the law always retards public opinion. Now, because public opinion itself generally embraces pretty late the necessities that have engendered certain social transformations, what results is that laws that are at first totally adapted to and fit the needs of certain epochs subsequently become no longer suitable to the needs of certain others. Such laws reach their end then and are terminated upon their becoming highly detrimental, after having been originally very useful. The judicial interest and social interest, at first identical, afterwards separate and end up by contending with each other. In all ages it has been so, but most particularly in the periods of rapid progress, such as today.

Our present criminal code finds itself exactly in this place where the law is no longer in accord with the needs of the society that it is called upon to govern. The magistrate who judges by taking, as he must do, the law for his guide, judges with an interest that is no doubt in the interest of the law, but which is no longer that of society.

In order to clearly perceive the philosophical spirit of our current legal code relative to criminals, it is necessary to go back to its real roots and obtain an understanding of the series of its successive transformations. Concerning the history of this evolution, the books of classical law are utterly silent. Further back than the old Roman laws of the Twelve Tables, framed in 451-449 B.C., one finds nothing but the darkness of time. I certainly do not wish to recommence here a history that I have already outlined in the chapter devoted to “the evolution of the law” in my book *L'homme et les sociétés; leurs origines et leur histoire*; however, it is necessary for our objective that I retell in a few words that among all peoples the right to punish was at first the right pure and simple to vengeance, a right originally exercised by the offended party or his family and later on by society itself. In exercising vengeance the punishment of one-for-one retaliation—the eye for an eye kind of penalty the Bible and all the ancient codes prescribed—was substituted in after years by monetary compensation. In fact, the initial meaning of the word “punishment” in its original Greek or Latin (ποινή, *pœna*) simply signifies “compensation.” Crime in

itself does not have to be disgraceful; it may merely cause damage. When vengeance is satisfied by a monetary settlement, the culpable person's lawful consideration generally ends the matter, as is the case today whenever the president of a railroad company indemnifies the victims of a train accident. Along these lines, in Anglo-Saxon law the life of each man as well as the mental or material damages that he might suffer were valued by an amount of silver that varied according to his rank.

Our modern notion about crime therefore does not exist in the early codes, at least as far as individuals are concerned; it only is evident with regards to offenses affecting the entire tribe or the gods of the tribe. In a more advanced form of evolution, people recognize that society is harmed more by certain offenses than by others, and that the murderer, robber, and arsonist are in reality the most dangerous criminals of all. Society then substituted itself for the individual in the pursuit of chastisement, extracting vengeance in the name of the community by means of monetary reparations or a pronounced punishment upon the offender, which necessarily affected the guilty party in his honor and consideration. Simple monetary compensation for the majority of acts that we categorize as crimes today has in the meantime persisted for a long time. At the fall of the Roman Empire, it had nearly disappeared from Latin law, but it reappeared in the Middle Ages with the invasion of peoples who were still at this phase of evolution concerning the ancient rights.

This old-fashioned notion of vengeance under any sort (retaliation or compensation) which at first was exercised by the offended party, then later on by the community, has been substituted in modern times by the idea that laws are not instituted for avenging society, but for protecting it by punishing culprits, and to curb the tendency towards crime by the example of various punitive measures.

If the modern codes were truly written according to, and under the influence of, these latter principles, they would probably have to be perfect; but, what becomes clear in an attentive reading of them and in an examination of the conditions to which they are applied is much more the old notion of vengeance than that of protection, and in reality the second is almost entirely sacrificed to the first. It has come to the point where, in order to satisfy this hidden need for vengeance, we have found recourse in a system of punishments that renders the convicted person considerably more dangerous than he had been initially, as is substantiated by the continual increase in the degree of recidivism. Two of the theoretical goals cited above—protecting society and correcting the offenders—are therefore not being attained. Only the third—frightening people by the threat of punishment—has perhaps in a certain measure been achieved, but in every case it has proven to be a very weak measure.

Such is the actual state of criminal law from the judicial point of view. We shall now evaluate the question of criminals from the social point of view.

#### IV

We must first of all remark that we can consider as an evident truth that from

the point of view of the social interest it is of little import that the “public outcry,” as the jurists call it, be satisfied, but that it is much more important that society be protected. Is it in reality being protected? We shall investigate this.

In order to understand how our current legal code protects society against criminals, we shall invoke the authority of those persons who are the most interested in defending it, meaning the magistrates themselves. From their declarations as well as from the results of statistical studies, what becomes clearly evident to us is that today's prison—this principal sanction of modern law—is an excessively costly establishment, uniquely serving to handle well the most dangerous, that is to say, those who are not individuals entering it for just a short time. “Where there is a prison,” wrote a few years ago Monsieur Moreau Christophe, Inspector General of prisons, “there is an association to such a degree that, with the hand of justice covering so to speak the entire country with an immense net in which each hole in the mesh is a prison, it follows that our 3 convict prisons, 20 central prisons, 362 jailhouses, combined with the municipal jails of our 2800 cantons and the secured rooms in our 2238 police stations, are as much as anything antisocial clubs and dens of malefactors hosting public reunions of the condemned, accused, vagabond beggars, murderers, robbers, and prostitutes, all of whom are associated with one another by their bonds to the fellowship of crime.”

At the present time we lock up each year more than 100,000 individuals.<sup>1</sup> They emerge from the prisons without any other possible occupation but to conspire against society, propagating their vices and corrupting through their fatal example those with whom they associate. “If, in taking a period of ten years,” wrote Monsieur Beranger, presiding judge of France's highest Court of Appeal, “one adds up the number of detainees who every year have succeeded each other in our jails and prisons, one will find that more than a million inmates are plunging ever deeper into a life of crime, and that the cost to the State to maintain them is upwards of one hundred thirty million francs.”

Since these lines have been written, nothing has arisen to modify this legitimate concern. The number of individuals incarcerated has become very great, and the amount of money that imprisonment now costs has nearly doubled. As for repeat offenders, they are crossbreeding rapidly, as the following table demonstrates:

#### **Number of Repeat Offenders Sentenced by the Criminal Courts and Correctional Tribunals in France**

<u>Years</u>	<u>Number of Repeat Offenders Sentenced</u>
1872 . . . . .	59,076
1873 . . . . .	63,469
1874 . . . . .	70,806
1875 . . . . .	69,809
1876 . . . . .	70,257
1877 . . . . .	72,733

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<sup>1</sup> In 1877, 105,123 persons were sentenced to jail by the petty crime courts, and about 3500 were sentenced by the criminal courts to prison, solitary confinement, or death; around 1000 were sent to convict prison.

In six years the repeat offenders have, as one can see, increased by 13,657. Two thirds of these recidivists (46,627 in 1877) had originally been sentenced for only a year or less of confinement.

At the same time as the repeat offenders have multiplied and as, under the influence of humanitarian ideas, the sole punishment truly feared by certain criminals—the death penalty—is more and more rarely applied, the number of major crimes is rapidly increasing. The following figures, also taken from official sources, furnish the categorical proof:

### **Number of Major Crimes (Homicides, etc.) Against Persons**

<u>Years</u>	<u>Number of Defendants Convicted</u>	<u>Capital Punishments Performed</u>
1872 . . . . .	1,884	26
1873 . . . . .	1,954	15
1874 . . . . .	1,972	13
1875 . . . . .	2,023	12
1876 . . . . .	2,101	8

I shall not lay stress too much upon the serious implications that are conveyed by these totals; but is it not remarkable that, as capital punishment has become more rare, the number of major crimes has increased? Is it not evident that this constitutes a powerful argument against the death penalty's suppression?

A learned economist, Monsieur de Molinari, recently made instructive calculations about the odds of incurring death to which one exposes himself in regularly practicing the trade of murder versus certain other dangerous professions, like being a mineworker. Taking into consideration the number of crimes committed annually and comparing this number to the odds of dying in certain trades, such as mining, and noticing as well in both the English and Belgian statistics, the only ones published, that the perpetrators of *three fourths* of the crimes designated as such by law enforcement authorities remain unknown, that only one criminal out of every six is able to be arrested and punished, that out of 36 murderers there is on average only one guillotined, Monsieur de Molinari arrives to this conclusion: being in the murder trade is much less perilous than working as a miner, and “that an insurance company which would insure murderers and mineworkers would require from the former a lower premium than what it would be obliged to demand from the latter.”

From all that has preceded, the influence, or lack thereof, can be plainly seen. When society avenges itself from the offense committed by a criminal by locking him up, this childish remedy is its right; however, society must not at the same time forget that it pays for this vengeance very dearly, and that upon completing his sentence the criminal, who often only weakly fears for his being sent to prison, will always emerge from it a much more

dangerous person. In fact, major crimes nearly always have for their authors individuals who have experienced the injustice of being previously imprisoned for minor infractions.

That prisons might be able to ameliorate a criminal, this is one of these ideas that cannot find defenders today amongst competent persons. I readily admit, from the theoretical point of view, that by radically transforming our prisons, making them no longer prisons per se, they might be able to have a useful action upon that category of neutral natures whose mental constitution I described earlier; but this transformation is only possible at the cost of such an expenditure of work and effort that one will not find anyone willing to burden himself with such toil. From the practical point of view, the theoretical possibility of this amelioration is therefore without value. Nothing is easier to prove theoretically—mind you, only theoretically—than the possibility of the amelioration of a particular category of criminals. The neutral and indecisive characters about which I have spoken perform indifferently good or evil in conformance with the influences acting upon them, and will consequently conduct themselves well if one places them under the influence of goodness-oriented incentives that are more powerful than other kinds of incentives which might contrariwise attract them towards wrong-doing. It is by the employment of these means that some have succeeded in a few famous experiments to bring about improvement in a certain number of detainees. Such are the experiences of Governor Obermann regarding 600 prisoners in Munich, of Captain Maconochie at Norfolk Island, and of Colonel Montesinos at Valencia. Although trumpeted as a complete success, such attempts have not been repeated and are hardly even possible to carry out. Transforming the prison—this principal end point for society's vilest dregs—into a schoolhouse, supplying to the individual who would sojourn there all that in which he is deficient, is, I must say, most certainly one of those works of which perhaps none other is greater or merits more our admiration and gratitude; but at the same time it is one of those works that can only succeed if it is carried out by men endowed with the greatest character and highest intelligence, by men undertaking this job with complete devotion and an unshakeable belief in its worthiness. However, can one truly hope to find such qualities in the quite subaltern natures that we place in charge of our prisons, men whose powers moreover are narrowly limited by the regulations of a meticulous and harassing bureaucracy?

The above rare experiments that I have cited in order to place before the eyes of the reader all the elements of the question are therefore unable to prevail against the following definite fact, a fact which is understood by the magistrates themselves, and is also verified by statistics: that our penitentiary system, far from protecting society, only accomplishes to create for it an army of enemies. This army is rapidly increasing in size, and we can already foresee the day where modern civilizations will not manage to come apart and collapse but at the cost of some of those gigantic hecatombs which make history shudder.

The consequences of our criminal code then are absolutely disastrous; and yet, for the sake of arriving at such results, society places in charge of legal proceedings a category of individuals who are unfortunately far from being able to be considered as the most enlightened, and whose cold ferocity entirely reminds one of the darkest

days of the Spanish Inquisition. Today the law treats our lowest citizens in the meanest and most limiting way, while at the same time the most obscure of our magistrates can harass the most eminent citizens.

Dangerous for most honest citizens, corrupting to the neutral natures (whereas another system would be for them ameliorating), and fatal for society, against which it arms more and more numerous legions of bandits who threaten to submerge it some day: such is our current criminal law.

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We have come to see what our criminal law is and what it has produced; we shall now see what it might be able to be, and certainly what it will be one day.

With the pressing necessity for society to protect itself against the destructive elements contained within its midst having been clearly acknowledged, and the impossibility of changing criminals for the better by the means presently in use having been likewise demonstrated, we find ourselves strongly drawn to this severe conclusion: society must at all costs eliminate from its midst those posing the most danger to it. The way to attain this result without wounding our sentiments of humanity is in reality very simple. It will suffice to deport all the criminals to one of those distant countries in Africa, Oceania, etc. that civilization has not yet touched. I am convinced that the legislator of the future, fathoming the laws of heredity, knowing that most of the habits of prisons and jails are individuals possessing a peculiar mental constitution which has either been furnished them at birth or has resulted from a pathological state whose causes we can do nothing about, will set aside vain discussions about the degree of responsibility of criminals; and, remembering that the primary duty of any society is to defend itself, he will close forever the prisons and jails, deciding instead to reallocate and spend the multimillions that they have cost to deport to the far-off countries for life all the recidivists—they and their posterity—in every case involving serious wrongdoing. Deportation to the semisavage countries will, moreover, clearly place most of the criminals in a setting that corresponds well to their twisted intelligence and inferior morals, and they themselves might even prosper there.

As for minor violations of the law that hardly endanger public security, monetary fines or, in their absence, obligatory industrial or agricultural labor for a variable duration of time, or also even military service performed under strict discipline, will prove much more efficacious than prison. Such means will above all be effective with regard to those offenders so little punished nowadays—commercial and financial swindlers—who so profoundly demoralize all modern nations, and who, though less noxious in appearance than masked highwaymen, are nevertheless a much greater evil.

As for the genuinely insane, it is necessary to resolve to put them away forever, because they are generally incurable and are considerably more dangerous in reality than the sensible man who, under the influence of a transitory violent passion, commits a crime. To acquit and set at liberty an individual who methodically kills his wife with

an ax, as was recently done by a jury under the pretext that the murderer, being drunk, was irresponsible, this is to reinject into society a person just as dangerous as an enraged animal.

Even from the humanitarian point of view, which in this case must only be considered of secondary importance, the system of deportation will prove to be significantly less cruel than the punishments that we inflict today upon those found guilty of a crime, punishments which render these people incapable afterwards of ever finding any work.

Questions of responsibility or of free will clearly have little to do with all that has preceded, and if we notice that judges always appear anxious, it is but an unconscious mien due to their being under the preoccupation (emanating from the ancient right) not of protecting society, but of avenging it. Where the injury occurs through accidental or involuntary means, it's as if it basically does not exist, and vengeance loses its applicability and rights; from this arises the importance for judges of knowing whether the crime has been committed intentionally or not.

In reality, such preoccupations are silly. Should a snake or a mad dog bite me, I care little about knowing whether the creature is responsible or not for its misdeed. Instead, I try to protect myself and others by preventing it from wreaking further harm: that is my sole preoccupation. Most certainly, all criminals are irresponsible, in the sense that by their nature or life circumstances they could only be criminals; but, should these redoubtable beings deserve more consideration than the thousands of innocents that we send to perish miserably upon distant fields of battle in order to defend the honor of causes which they themselves do not understand? Should a murderer's victim and, above all, the future victims that will surely be so upon the killer's release from prison or the hospital be themselves less worthy of concern than this murderer himself?

The moralists, accustomed to believing that a benevolent Providence governs the world with an equitable hand, and that their idealized vision of justice should lord over matters, are unquestionably indignant that an individual may be punished for a mistake for which he is not at fault. But these righteous men, who have only lived their lives inside books, always overlook anything that is not in agreement between their reveries and the reality of things. It is surely not my fault if I light upon in my path the obscure microbe for smallpox, cholera, or the plague; and yet, if I do encounter it, I shall be punished and likely die. Moreover, it is not any more the fault of an individual if he is good or wicked than if he is handsome or ugly, intelligent or stupid, in good health or sick. Nothing, however, prevents a person from being in these different cases rewarded or punished by nature or by mankind, for qualities or vices as independent from his will as the color of his eyes or the shape of his nose. We may feel sorry for those who in share possess low intelligence, physical ugliness or a feeble state of health, just as we feel sorry for the insect that we squish while walking or the animal that we send to the slaughterhouse; but this here is a vain compassion which cannot extricate them from their destiny.

Our conclusion therefore is clear: All criminals without exception are responsible, and society is obligated to protect itself against them. Such a doctrine surely does not



have any chance of winning many adherents today, and one may only consider it as a verity of the future, a truth that will be commonly held fifty years from now. With such previsions must we suffice ourselves; for the knowledge which permits the observer to foresee the transformation of ideas that must inevitably bring about the evolution of a civilization does not supply him any means of accelerating the course.